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PUBLIC UTILITIES REGULATION IN NEW YORK

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No city in America is more acutely conscious than is New York that it has a public service corporation problem. For years the wanton mismanagement of its street railway systems has been a matter of daily discussion. Repeatedly, political campaigns have been waged for and against the influence of the gas companies. It was no sudden exasperation, therefore, which made possible the centering of the campaign of 1905 on the question of municipal ownership of these utilities. Now, while the result of this campaign is still in doubt, New York has involuntarily undertaken a program of elaborate regulation of transportation and lighting corporations. In 1907 the governor of New York urged the passage of a special act providing for a recount of the votes cast at the last municipal election to determine whether the voters of the City of New York actually endorsed by majority vote a program of municipal ownership of existing public utilities. In addition he advocated the provision of an effective and intelligent means of public regulation of these same utilities, privately owned. Indeed, hard upon the widespread enthusiasm of the past decade for municipal ownership, the country is now witnessing a general tendency towards increased regulation.

While this tendency towards regulation is in a sense reactionary from the public ownership movement, it aims to secure the same definite ends in improved service as are sought by the advocates of outright assumption of ownership by the municipalities. The states are generally undertaking a more rigid regulation of public service corporations. Many causes have contributed to this result, and among them the public ownership movement itself, but none of greater moment than the increasingly general conviction that adequate service is a matter of public responsibility, and that the community, whether state or municipality, has definite obligations with respect to the service rendered by public utility corporations of its creation. The arbitrary exercise of reg-

ulative power, without regard to the various elements involved in the proper operation of public utilities, may only serve to develop increased ingenuity in anti-social practices on the part of the corporations controlled and regulated. To be ultimately effective, public participation in the operation of public utilities, through so-called regulation and control, must seek not only adequate *service* at reasonable rates, but efficient and economical management of corporate affairs as well. Economical management, reflected as it would be in increased corporate profit or reduced cost to the consuming public or both, is a factor of great importance in the educational possibilities of public participation in the management of public utilities. With responsibility to "profit and loss" as well as to community needs, a method of public administration of these utilities may eventually be elaborated by the agencies of control, which would serve to relieve of many of its expected dangers the transition from private to public ownership and operation. That this may prove in part the function of the recently created public service commission for New York City now seems probable. It is confidently asserted by counsel for the commission, after an extensive inquiry into the financial condition of the New York City and Metropolitan Railway Companies, that the profitable operation of the lines controlled by these companies, in accordance with the terms of law and the demands of the public, will not again be possible under private ownership.

The New York Public Service Commissions Law

The public service commissions law, of the State of New York, taking effect July 1, 1907, established two commissions for that state to regulate and control common carriers, including railroad corporations, express companies, car companies, sleeping-car companies, etc., gas companies and electrical corporations. One of these commissions has jurisdiction over the first district, which includes only the City of New York, and the other over the second district, including the rest of the state. These commissions, within their respective jurisdictions, succeeded to the powers of the former railroad commissions, long-established and always innocuous, the gas and electricity commission created in 1905 after the legislative investigation of gas companies in the City of New York, and the state inspector of gas meters.

The commission of the first district succeeded to the duties of the rapid transit railroad commission, and thus, in addition to regulatory responsibilities, is charged with the development and construction of rapid transit railways in the City of New York. For the execution of its functions the New York City commission has already developed an elaborate organization whose maintenance will cost upwards of \$1,000,000 in 1908. With the exception of the salaries of the commissioners and the secretary (amounting to \$81,000, which are paid by the state), the expenses of the commission of the first district are payable by the City of New York. Although the city must provide the cost of maintaining the commission, it has absolutely no voice in determining the extent or nature of its expenditures. In the event of the refusal of the proper municipal bodies to provide what the commission deems an amount adequate to its needs, recourse may be had to the appellate division of the supreme court, whose determination of the commission's needs is binding upon the city. It is provided, however, that the commission may secure a repayment of the city's expenditures in its behalf from the bidder or bidders at the public sale of franchises for the operation of rapid transit railways.

At the head of this organization are the five commissioners, each of whom receives a salary of \$15,000, half again as large as the salary of the governor, and equal to the salaries received by the mayor and the comptroller of the City of New York. In charge of its office, and of the bureau of gas and electricity, is the secretary, with a salary of \$6,000. In charge of the clerical force is an executive secretary. In charge of the bureau of statistics and accounts is a chief statistician and a chief accountant. In charge of the law department and franchise bureau is the commission's counsel, with a corps of assistants. The chief engineer is in executive control of a bureau of subway construction, consisting of six engineering divisions, and departments of design, stations, sewers and material, and a bureau of transportation, composed of sub-bureaus of equipment inspection, traffic inspection and accident inspection. This is the elaborate enginery provided by the State of New York to regulate and develop the public utilities of the City of New York.

It is a significant fact in the history of our democracy that the regulation of the public utilities of the greatest city in America

should be vested in a state commission appointed by the governor and absolutely irresponsible to the community whose interests it is intended to conserve. It is, of course, true that the close affiliation between the great public service corporations of the metropolis and the ruling political party would make effective municipal control only remotely possible. But while this conclusion is inevitable from the history of the relation of local politics to traction and lighting enterprises, it must be remembered that state action followed immediately what is probably the most vigorous expression of public appreciation of the gravity of a local public utilities situation that has ever been registered in America, with the possible exception of the Chicago election of 1905. While the theory of municipal subordination to state control and the dependence of the municipality on the legislature for power adequate to control local corporations is well established in law, it is difficult to find justification for the removal of the power to construct municipally-owned rapid transit railways from the hands of the municipality, for whose use the railways are designed, and from whose resources they are constructed. The abolition of the local board of rapid transit railway commissioners one year after the appointment to vacancies in their body was vested in the mayor of the city makes community control over its utilities seem remote indeed in New York. There is some compensation, however, in the fact that the terms of the rapid transit act require the operation, by the public service commission itself, of the subways or elevated roads publicly constructed, in the event of the commission's inability to make satisfactory terms for their operation by private enterprise. In that case there will be provided a direct opportunity in the field of public operation for exercising expert powers developed through regulation of private corporations.

With respect to its provisions relative to railroads, the New York law is closely modeled on the interstate commerce act. Its regulatory powers are considerably enlarged over those granted to the old railroad commission. That body, originally established in 1856, then abolished, and recreated in 1882, while entrusted with "general supervision of all railroads" had been carefully denied power to make its supervision effective. The most drastic measure available to it in the event of unlawful conduct on the part of a corporation was to report such conduct to the attorney general.

The board was vested with no power to issue orders, being restricted to *recommendations*, except in the matter of forms of accounts to be kept by the corporations. The provisions of the railroad law governing the powers and duties of the railroad commission were clearly of corporation origin. The very nature of the law governing its acts made it subservient to the railroads, at whose expense it was maintained, and valueless as an instrument of public control. The law expressly provided, for example, that the commission should not give publicity to information in its possession concerning the management and operation of railroads, if in its judgment the public interests did not require it or if the "welfare and prosperity of railroad corporations of the state might be thereby injuriously affected."

As they affect street railroads, the powers of each of the new commissions in its respective jurisdictions may be summarized as follows:

1. To prescribe the form of accounts.
2. To examine books, records, contracts, documents.
3. To prescribe the form of report.
4. To investigate on its own motion violations of law or orders of the commission.
5. To investigate complaints.
6. To take action on complaints, if necessary.
7. To fix rates.
8. To prescribe equipment.
9. To order repairs and improvements.
10. To prescribe the frequency and time of trains and cars.
11. The consent of the commission is required to validate:
 - (a) Assignments, transfers and leases of franchises; contracts and agreements with reference to franchises;
 - (b) The holding of the stock of one street railroad corporation organized under the laws of New York, by another, domestic or foreign.
12. The law further forbids any corporation, domestic or foreign, from purchasing or acquiring, taking or holding, more than 10 per cent of the total capital stock issued by any street railroad corporation organized or existing under the laws of New York, except where stock is

transferred or held for the purpose of collateral security, and then only with the consent of the commission having jurisdiction.

13. Issue of stocks, bonds and other forms of indebtedness are prohibited for terms longer than twelve months except on the approval of the commission. Its consent must be premised on inquiry and investigation. The commission has now power to authorize the capitalization of any franchise in excess of the amount, exclusive of any tax or annual charge, actually paid to the state or political subdivision thereof for the grant of such franchise. The capital stock of merged corporations may not exceed the par value of their respective capital stocks and any sum actually paid in cash. A contract for consolidation or lease may not be capitalized, nor may any bonds be issued against any contract for consolidation or merger.

The powers of the commissions with respect to gas and electric lighting companies are identical with those formerly possessed by the gas and electric light commission and the inspector of meters. They have general supervision over persons and corporations authorized to use the streets and public places of any municipality, through which to transmit gas or electric current for light, heat or power, or to maintain underground conduits. With respect to this supervision the commissions are given power to fix the standard of illuminating power and purity of gas and to prescribe methods of regulating the electric supply system, and, in addition, to require gas sold to conform to its standards with respect to illuminating power and pressure. For these ends they have access to and may examine the plants of the companies within their respective jurisdictions.

The commissions may prescribe uniform methods of keeping accounts for persons, companies or municipalities engaged in the manufacture, sale or distribution of gas or electricity. They must require the submission of an annual report containing information respecting capital stock, bonded and other indebtedness, receipts and expenditures, names and salaries of officers, wages paid employees, dividends paid, and location of plants. This provision also applies to municipalities engaged in operating gas or electric sys-

tems. Each commission is empowered to examine the books of corporations, persons or municipalities under its supervision.

The commissions are required to keep informed on the methods employed by the companies under their supervision and to "see that their property is maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchise and charter." They also exercise control over gas and electric meters, testing all new meters before setting and any old meter on complaint. As in the case of railroad or street railroad corporations, franchises to gas companies are inoperative without the consent of the proper commission. The provisions respecting the issue of stock, bonds and other forms of indebtedness, franchise, capitalization, transfers, leases, contracts and agreements applying to street railroad companies also apply to the lighting corporations. The provisions of the Massachusetts law respecting complaints concerning the purity, pressure and price of gas and the initial efficiency and price of electricity are practically incorporated in the New York law. After proper petition and hearing the commissions may fix the price of either commodity.

With respect to complaints concerning the character of service, it is designed that the commissions shall be particularly active. The law requires that their offices be open from eight in the morning until eleven at night to facilitate the making of complaints. Failure to comply with the orders of the commissions with respect to railroad or street railroad corporations is punishable by fine not to exceed \$5,000. Non-compliance by lighting companies is punishable by \$1,000 fine. The commissions may take summary proceedings through counsel to compel by mandamus or injunction compliance with law or their orders.

Very few novel powers will be found in these provisions by those familiar with the development of corporation regulation during the past quarter century. The Massachusetts gas commission has for more than twenty-five years exercised supervisory powers of like character. The powers of the commissions relative to the approval of stock and bond issues and inter-corporate agreements are in a measure prompted by the peculiar experience of New York City in the matter of street railway and gas company consolidation, but have also been exercised for some years almost equally extensively by the Massachusetts gas commission. The Massachusetts

railroad commission has for some time been vested with power to compel on penalty such additional service as it deems necessary. Doubtless like provisions will be found in the laws governing or regulating commissions in other states. The provisions relative to stock transfers, franchise leases, etc., are designed to prevent in the future such transactions as have already brought the principal street railway system of New York City to bankruptcy, and are to that extent locking-the-barn-after-the-horse-is-stolen measures.

While the gas commission had its immediate origin in the gas investigation of 1905, the creation of a commission to control the gas companies of New York City had been under discussion at various times since 1885. The investigation in that year and the year following, which resulted in the limiting of the price of gas to \$1.25, was also followed on two succeeding occasions by the introduction of bills for the creation of a state commission, but without effect. The agitation concerning the quality of gas service in New York City from 1902 to 1905 finally resulted in the creation of the commission to whose powers the public service commission has succeeded. Almost immediately after its creation the gas and electricity commission was estopped by injunction from the enforcement of its orders respecting a reduction in the price of gas in the City of New York. The public service commission of the first district has, therefore, pending the settlement of the question of the rate reduction in the United States Supreme Court, confined itself to supervision of the service rendered by the companies. Its activity in this field has been confined to the adjustment of complaints and the testing of meters. Under the supervision of the commission of the first district are sixteen gas companies, nine electric companies and three gas and electric companies. The total reported amount of stocks and bonds of these companies issued and outstanding on June 30, 1907, was \$353,299,533.80, or approximately one-half the amount of the funded debt of the entire City of New York. The gross earnings of these companies were for the year ending June 30, 1907, \$48,363,840.20, their expenditures for operation during the same period being \$36,318,491.09. Under the supervision of the commission of the second district are 440 persons, corporations and municipalities engaged in the manufacture and sale of gas or electricity, representing a reported investment of approximately \$500,000,000.

Although estopped by injunction from exercising its powers with respect to rate regulation in the first district, the constitutionality of the delegation by the legislature of its power to fix rates has been judicially supported in a case brought in the City of Saratoga.

Activities of the New York City Commission

The public service commission of the first district has inaugurated an active program with respect to the transportation system of Greater New York. This system, operated by the Interborough-Metropolitan consolidation and the Brooklyn Rapid Transit railway, representing a combined stock, bond and floating indebtedness of \$617,676,000 and reported assets of \$624,076,000, early became the subject of its public inquiry. This inquiry served to verify what was generally understood, namely, the depleted condition of the despoiled Metropolitan railway, representing practically the entire surface railway system of Manhattan and the Bronx. Misappropriation, diverted funds, extravagances and gross overcapitalization, when brought to light, quickly drove the New York City railway, the holding company, and the Metropolitan and Third Avenue systems, into voluntary receivership, where the authority of a federal court serves as a possible protection against the immediate orders of the commission. For the entire time since its creation, the commission of the first district has been actively employed through special counsel and a staff of accountants in unraveling the intricacies of the stock juggling which has marked the recent history of surface railroads in New York. How effective the accounting supervision of the former board of railroad commissioners over this street railroad combination had been, was shown by the failure of that body to question a reported cost of \$2,553,697 per mile of the Fulton Street railroad operated by horse-cars, while accepting a statement of cost of \$24,836 per mile, for the Tarrytown and White Plains road operated by electricity. Charges repeatedly made by a former employee of the Third Avenue railway relating to gross misuse of funds in the electrification of the roads were thoroughly borne out. It was shown in this connection that the cost of electrifying the Twenty-third Street railway had exceeded one-half million dollars per mile. Book assets included, for example, paid

salaries of officers, contributions to civic organizations, and counsel and legislative lobbyists' fees.

Concurrent with this activity in determining the true financial condition of the railway systems, the commission has made a careful examination of the physical condition of the equipment of the surface railways and has compelled the immediate improvement of defective and neglected rolling stock. The method of the commission with respect to the problems of regulating transportation conditions is to arrive at a basis for judgment through a careful investigation by experts. In this manner, for example, it has undertaken the improvement of surface transit conditions and the handling of traffic in the subway. The procedure of the commission in securing improvements is to notify parties affected, submit a proposed form of order, hold a hearing at which the representatives of the company and other parties in interest are heard, and after hearing, issue the order, confirmed or modified as the case may be. The commission of the first district held 179 hearings on orders and complaints during the first six months of its existence. These hearings were conducted pursuant to the provision of the law which imposes upon common carriers the duty of providing safe and adequate facilities for the transportation of persons. The initiative of the commission is conditioned on the failure of a carrier properly to perform its functions in this respect. It is therefore necessary for the commission to establish the default of the company. This is done either by investigation of complaints or by independent investigations, through the experts of the commission. In consequence of these investigations, the commission issued to January, 1908, 126 orders. Of these 84 were based upon complaints requiring immediate action and 42 were orders issued after hearing.

The development of additional rapid transit routes is an important function of the New York City commission. The preparation of plans and contracts and supervision of construction are in the hands of a corps of engineers organized by the former board of rapid transit railway commissioners and taken over intact by the new commission.

A noteworthy feature of the work of the commission of the first district has been the reporting and investigation of accidents on transportation lines. The companies are required to report all accidents immediately by telephone. The total number reported in the

six months ending December 31 was 24,209, of which 1,147 were of serious character and 288 resulted in loss of life. In striking contrast, the inefficiency of the method of the former railroad commission is shown by the fact that in July, when the method employed by the railroad commission for reporting accidents in writing was still in force, only 240 accidents were reported, while in August, under the new system adopted by the present commission, requiring immediate verbal notification, 5,871 were reported. Acting upon this information, the commission will undertake a study of means of accident prevention and compel the provision of safety appliances, the absence of which at present from the surface cars of New York is notorious.

Regulating Stock and Bond Issues

Opportunity for the exercise of its authority to regulate stock and bond issues by the city commission has only recently arisen. Application has been filed by the Interborough Rapid Transit Company for permission to issue \$50,000,000 in bonds. The purpose of this proposed issue is to retire the company's note and floating indebtedness. The note indebtedness amounting to \$25,000,000 was incurred in the building of the new sub-East River (Steinway) tunnel, in meeting the excess cost of the new Battery tube constructed by the company for the city and in purchasing certain Long Island surface lines. The action of the commission on this application will demonstrate in a forceful way its measure of usefulness to the community. The power to regulate the issue of stock and incurrence of other forms of indebtedness by the utility corporations is primarily designed to prevent deterioration of service by reason of depleted resources through overcapitalization. At the same time, the regulation of corporate indebtedness is a matter of moment from the standpoint of public morality. The evil effects upon business and industrial morality of such fraudulent use of indebtedness certificates as was practiced by the railway systems of New York City are difficult to overestimate. The benefits accruing to innocent purchasers of these securities through the proper exercise of public control over their creation will be considerable. It is asserted that the publicity given to the financial methods of the New York City railway has been reflected in an increase in dishonest practices among the employees of the companies, particularly in the theft of

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cash fares. So conspicuous an anti-social act as the repeated capitalization of the growth of earning power of the various railways many times in excess of actual investment must unquestionably have affected the morals of the companies' employees, government officials exercising authority over them, their stockholders, and the public at large.

The process which produced the present traction system in New York is generally known. The Metropolitan Street Railway Company, organized in 1893, guaranteed fixed charges from $1\frac{1}{2}$ to 18 per cent on the stock of its subsidiary leased lines, and then capitalized the guarantee for upwards of twenty millions of dollars; thereupon, it in turn leased itself for 999 years for a guarantee of 7 per cent on its stock, and payment of fixed charges to the New York City Railway Company. The New York City Railway Company in turn capitalized its guarantee to the Metropolitan stockholders, and a few franchises for another \$20,000,000. The stock of the New York City Railway Company, in turn, fell into the control of a third holding company, the Metropolitan Securities Company, which was formed of the same interests in slightly different combination, as composed both the Metropolitan and the New York City railway companies. The Metropolitan Securities Company as the next step in the construction of the inverted financial pyramid, issued \$30,000,000 of securities based upon its control of the New York City Railway Company, a few undeveloped franchises, some of them worthless except to capitalize, and a short Bronx railway. Finally, the creation of the Interborough Metropolitan Company, by the combination of the Manhattan and Bronx holdings with the Manhattan subway and elevated lines and the Belmont Long Island surface lines, added \$155,000,000 in new stock, and bonds and notes for \$85,000,000. This combination represents a capitalization of \$373,881,500 with an outstanding bonded, note and certificate indebtedness of \$271,895,318. No one can tell how much of the stock capitalization of the system represents water, but a conservative estimate would probably place it at \$200,000,000 or more. What has become of the \$271,894,318 secured from the sale of bonds, certificates, etc., cannot now be ascertained. The solution of this mystery is forever prevented by the destruction of the books of the Metropolitan Street Railway Company in 1902.

The public service commission law provides that when an

application is filed with a commission for the issue of stock or bonds, the commission shall, if it approve, issue an order stating that in its opinion the use of the capital to be secured by the issue is reasonably required for the purposes of the corporation. The law further provides that the commission shall, in order that it may arrive at a basis of judgment with respect to the application, make such inquiry or investigation as it may deem of importance. A proper inquiry in the present case might well be with respect to uses to which funds secured from the various previous issues have been put. These issues were made with the approval of the former board of railroad commissioners, secured on a statement of the intended uses of the funds. That they were frequently employed to make good the accumulated neglect of rolling stock and equipment is suggested by the assertion of the receivers of the New York City railway in their recent application for authority to issue receivers' certificates. In this application they said: "If for the last few years the New York City railway had made the expenditures necessary to keep the rolling stock, track and sub-surface in first-class condition, it probably would not have been able to pay to the Metropolitan Street Railway Company its stipulated rental (7 per cent on \$52,000,000 and fixed charges—rental, in 1906, \$10,000,000).

To govern applications for the increase or reduction of stock or bond indebtedness the commission has established the following regulations:

1. That the petition contain a sworn statement in detail of the financial condition of the company, including, among other information, the amount and kinds of capital stock outstanding and the rate of dividend declared thereon for the preceding five years; the outstanding indebtedness and whether and how secured; the amount of stock of the petitioning company held by other companies, their names and the amount held by each.
2. That the petition declare the use to be made of the capital to be secured by the issue, how much for the acquisition of property, how much for the construction, completion, extension or improvement of facilities, how much for improvement of service, and how much for the discharge or refunding of its obligations.

3. That the petition state whether any of the outstanding stock, bonds or other obligations of the company has been issued or used in capitalizing any franchise or any right to own, operate or enjoy any franchise or any contract for consolidation or lease, and if so, the amount thereof and the franchise, right, contract or lease so capitalized.
4. If the stock is to be issued by a corporation formed by the merger or consolidation of two or more other corporations, the petition must contain a complete statement of the financial condition of the corporations so consolidated.

The commission of the second district has, in passing upon an application of a railway company for the issue of bonds, followed the procedure which it is likely the commissions will regularly follow. Inquiry was made by examination of records and witnesses concerning the uses made of previous issue. Having determined to its satisfaction that the expenditure of previous issues had been properly made and that the extensions proposed were of a desirable character, the commission indicated its willingness to approve the application, provided it were amended to specify definitely the term of the mortgage by which it was proposed to secure the bonds, the rate of interest to be paid on the bonds and the arrangement made for the sale of the issue. At the same time an application to retire 4 per cent bonds maturing in 1924 with 5 per cent bonds was denied on the ground that such action would impose an unnecessary burden on the petitioning company.

Regulation Through Accounts

The public service commissions are vested with power to establish a uniform system, and to prescribe the form of accounts, records and memoranda to be kept by the corporations under their control, and the manner of their keeping. The law requires, however, that the system of accounts prescribed shall conform as closely as possible to the forms and methods established by the Interstate Commerce Commission. It is made illegal for any corporation under the control of the commissions to maintain accounts, records or memoranda other than those prescribed by the commissions.

It has long been an element of the power of the various state

railroad commissions to prescribe the form of accounts to be maintained by the common carrier. In New York the railroad commission, while vested with the power, was inactive in enforcing its directions, and made no effort to secure uniformity, for many years neglecting to fill a vacancy in the position of accountant on its staff. The past failure of the regulating commissions properly to utilize the power to prescribe the form of accounting records and adequately to prescribe the character of classifications to be maintained, as well as their failure thoroughly to exercise their power of examination, explains much of their ineffectiveness. From the standpoint of control too much emphasis has been placed on uniformity, desirable as it is for statistical purposes, and too little, if any, on *classification*. It is of great advantage that excellent beginnings have been made by the Interstate Commission. The proper classification of expense items, the inclusion of maintenance burdens in operating expense, and the establishment of depreciation accounts will greatly facilitate the service commissions in preventing unnecessary bond issues and false payment of dividends and will provide a basis for the current replacement of worn out equipment.

The commission of the second district has already ordered the steam railway carriers of that district to instal the system prescribed by the Interstate Commission for accounting for operating revenues, operating expenses, expenditures for road and equipment, and for locomotive, car and train miles.

In formulating a system of accounts for street and interurban railways operated by other motive power than steam, the two commissions are co-operating with the Interstate Commission and various interested railroad associations, as well as railroad commissions of other states. It is announced that the aim of the commission is to establish a standard system for street railway accounting throughout America. The following pronouncement has been made by the commission of the second district, as its settled conclusion in the matter: "In prescribing a uniform form of accounts for electric railways within its jurisdiction and under its supervision, the commission will provide a depreciation account relating to all classes of property subject to depreciation." It is assumed that the commission has in mind, for purposes of control, the value of very careful classification in the accounts subject to depreciation. An adequate control of the service will require depreciation accounts

for every class of equipment, as well as road bed, rails and structures.

The commission of the first district has not selected the head of its division of accounts, although the statistical work of the division has already been placed in experienced hands. In its first report, the commission says; "From the very beginning, this commission has realized the importance and necessity of a uniform system of accounts for all corporations of the same kind, not merely because of the value of uniform *statistics* to this commission in arriving at wise decisions, but also because of their value to the companies themselves, to the holders of their securities, to investors and to those who use the service—the public." This commission has likewise promulgated orders for the maintenance of accounts by the railway corporations under its control, based on the classification adopted by the Interstate Commerce Commission.

In providing a standard, uniform system of accounts for gas and electric lighting companies, the two commissions have acted in harmony and in co-operation with the companies. No announcement, however, has been made of their conclusions.

The commission of the first district is seriously considering the possibility of conducting an annual audit of the companies under its control similar to the public audit of its lighting companies conducted by London. By this means alone can it secure adequate control over the financial operations of the utility corporations. Sworn statements by the companies are valueless as a means of control. Self-conducted audits only suggest the necessity for concealment. It is unfortunate that there is present doubt of the authority of the commission to conduct outright audits of the corporations. The power to *examine* the accounts does not, it is now believed, authorize the auditing of funds, revenues and expenditures and the independent determination of assets and liabilities. Given this power, regulation may prove to be not only a means for controlling the financial operation of the corporations, but of educating the public to a realization of the need for introducing a proper basis for audit in the accounts of its governmental institutions. There is at present no department of the government of the City of New York which ever receives or is susceptible of a proper audit. The department of finance, whose financial transactions exceed those of all the public service corporations under the jurisdiction of the

first commission, has never been audited, although the city has for more than thirty years supported an auditing agency created for just that purpose.

Conclusion

It is of course too early to draw conclusions respecting the efficacy of the work of the New York commission. While the intent of the New York law has been expressed in earlier statutes, notably in the laws governing the Massachusetts gas and electricity commission, no measure has hitherto provided so adequately for control. It will not be possible, under the New York law, for example, for a holding association such as the New England Gas and Coke Company to secure control of the local utilities while remaining outside the jurisdiction of the commission. But to prophesy the final outcome of the experiment would now be hazardous. May it demonstrate the capacity of the public servants when charged with great responsibilities and judged by the rigorous standard of results achieved, to render public service efficiently. The Public Service Commission in New York City has a distinct opportunity to set a new standard for public service in that city. Every pragmatic test will be applied to its achievements. It is a matter of public congratulation, however, that the commission, in pursuance of the law which created it, has adopted the principle of basing its actions not on guesses or expediency, but on facts secured through scientific inquiry. If the example of the commission results in the adoption of the *method of intelligence* in other departments of public business, there will be slight grounds for discouragement, even if regulation does not prove a final solution of the public service corporation problem.